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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff/Counter-Defendant,

v.

APPLE INC.,

Defendant/Counterclaimaint.

Case No. 4:20-CV-05640-YGR

**DECLARATION OF AASHISH PATEL IN
SUPPORT OF NON-PARTY NVIDIA'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF TRIAL
EXHIBITS AND TESTIMONY**

1 I, Aashish Patel, declare as follows:

2 1. I am a Director of Product Management at NVIDIA Corporation and work on
3 NVIDIA's GeForce NOW cloud gaming service. I am familiar with the facts set forth herein and,
4 if called to testify, could and would competently testify thereto under oath.

5 2. Pursuant to Local Rule 79-5, I submit this declaration in support of NVIDIA's
6 Administrative Motion to Seal Portions of Trial Exhibits and Testimony.

7 3. PX-2480/DX-3554, attached hereto as Exhibit A, is an internal NVIDIA presentation
8 entitled "GFN Review" and is dated January 8, 2021. Page 3 contains non-public GeForce NOW
9 subscriber data. Page 4 contains non-public information regarding product plans from that time.
10 Pages 6-8 contain non-public information regarding NVIDIA's GeForce NOW competitive pricing
11 strategy. Page 9 contains non-public GeForce NOW cost data. Page 10 contains non-public
12 GeForce NOW server capacity planning data. The information in this presentation is not available
13 to the public and was designated "Highly Confidential – Attorneys' Eyes Only" pursuant to the
14 Court's protective order when it was produced to the parties.

15 4. PX-0729, attached hereto as Exhibit B, is an internal NVIDIA presentation entitled
16 "GEFORCE NOW Work Week 40 KPIs (9/29 Fri – 10/05 Thu)." Pages 2-4 and 7 contain non-
17 public GeForce NOW subscriber data. Pages 5-6 contain non-public information regarding
18 NVIDIA's product plans from that time. Page 8 contains non-public GeForce NOW server
19 capacity data. Page 9 contains non-public GeForce NOW cost data. The information in this
20 presentation is not available to the public and was designated "Highly Confidential – Attorneys'
21 Eyes Only" pursuant to the Court's protective order when it was produced to the parties.

22 5. PX-0728, attached hereto as Exhibit C, is a one-page spreadsheet containing non-
23 public GeForce NOW subscriber data that I extracted from an internal NVIDIA database. I created
24 this spreadsheet to be part of NVIDIA's document production in response to the parties' subpoenas
25 for documents. The information in this spreadsheet is not available to the public and was
26 designated "Highly Confidential – Attorneys' Eyes Only" pursuant to the Court's protective order
27 when it was produced to the parties.
28

6. NVIDIA considers information about its subscribers, pricing strategy, product planning, costs, and server capacity to be highly confidential. NVIDIA takes necessary and appropriate measures to maintain the secrecy of such information. This information is stored in document repositories within NVIDIA that are accessible only to NVIDIA employees. Data regarding server costs and capacity, pricing plans and strategies, and detailed, aggregate statistics regarding GeForce NOW users are not shared outside of NVIDIA. Information regarding plans for launching games on GeForce NOW are shared with participating or prospective publishers and partners, but only under non-disclosure agreements.

7. NVIDIA would face harm from public disclosure of the information identified in these internal presentations and GeForce NOW subscriber data, and any similarly specific and granular information. The market for streaming video games is still at an early stage but is rapidly growing, with several existing competitors and many potential participants. Both current and potential competitors could use the highly confidential information in these internal reports and spreadsheet, which reveal NVIDIA's business performance, pricing strategy, product planning, business decision-making, and financial data, to gain an unfair advantage in the marketplace.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and that this Declaration was executed this 27th day of April, 2021 in San Francisco, California.

/s/ Aashish Patel
Aashish Patel

ATTESTATION

I, Marc David Peters, am the ECF user whose ID and password are being used to file the above Declaration. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Aashish Patel has concurred in the aforementioned filing.

/s/ Marc David Peters

Marc David Peters